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**State of Montana
Office of the Legislative Auditor**

Performance Audit

**DEPARTMENT OF JUSTICE
Fire Marshal Bureau**

PLEASE RETURN

This report contains recommendations concerning the Bureau's role and activities. These recommendations include:

- ▶ Modifying the current law requiring six-month inspections of all premises.
- ▶ Modifying the Montana Fire Incident Reporting System to reflect the needs of Montana fire departments.
- ▶ Improving bureau communication with local fire departments.
- ▶ Clarifying the responsibility for inspecting state-owned buildings.
- ▶ Improving the administration of the fire protection equipment dealer licensing and certification program.

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August 1984

The Legislative Audit Committee
of the Montana Legislature:

This is our performance audit of the Fire Marshal Bureau of the
Department of Justice.

This report contains recommendations concerning Bureau activities
and the role of the Bureau. Bureau responses are contained at
the end of the report.

We wish to express our appreciation to the staff of the Bureau for
their cooperation and assistance.

Respectfully submitted,

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SUMMARY OF RECOMMENDATIONS

The following is a listing of recommendations together with a notation as to whether the bureau concurs or does not concur with each recommendation. This listing serves as a means of summarizing the report issues and as a reference to the supporting comments. The full reply of the Department of Justice, Fire Marshal Bureau is included in the back of this report beginning on page 31.

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Recommendation #1

The Fire Marshal Bureau seek legislative change to modify the current law requiring six-month inspections of all premises.

12

Bureau Reply: Concur. See page 32.

Recommendation #2

The bureau coordinate the local inspection process by:

- A. Developing inspection forms which can be used throughout the state.

13

Bureau Reply: Concur. See page 32.

- B. Providing local fire departments with training on how to use the forms, and if necessary, how to conduct inspections.

14

Bureau Reply: Concur. See page 32.

Recommendation #3

The bureau periodically update its local fire department address list.

15

Bureau Reply: Concur. See page 33.

Recommendation #4

The bureau:

- A. Communicate with local fire authorities to determine why they are not using information produced from the Montana Fire Incident Reporting System.

17

Bureau Reply: Concur. See page 33.

SUMMARY OF RECOMMENDATIONS (Continued)

	<u>Page</u>
B. Modify the state's reporting system to reflect the needs of Montana fire departments.	17
<u>Bureau Reply:</u> Concur. See page 33.	
<u>Recommendation #5</u> The bureau take the necessary steps to improve communication with local fire departments.	19
<u>Bureau Reply:</u> Concur. See page 33.	
<u>Recommendation #6</u> The bureau take appropriate action to clarify which entity(ies) are responsible for inspecting state-owned buildings.	21
<u>Bureau Reply:</u> Concur. See page 35.	
<u>Recommendation #7</u> A. The bureau develop a system for maintaining accurate up-to-date fire protection equipment dealer records.	24
<u>Bureau Reply:</u> Concur. See page 35.	
B. Included in this system should be a monitoring function to verify accuracy of bureau records.	24
<u>Bureau Reply:</u> Concur. See page 35.	
<u>Recommendation #8</u> The bureau amend current administrative rules to include all necessary explanations in the actual rules.	25
<u>Bureau Reply:</u> Concur. See page 36.	
<u>Recommendation #9</u> The bureau periodically analyze and review fire protection equipment certification exams, the effectiveness of the exams, and if necessary, revise exams to reflect changes in fire protection equipment standards and codes.	25
<u>Bureau Reply:</u> Concur. See page 36.	

SUMMARY OF RECOMMENDATIONS (Continued)

Page

Recommendation #10

The bureau seek legislation to change the current fee structure for licensing and certification of fire protection equipment dealers so that fees are commensurate with the costs of administering the program.

26

Bureau Reply: Concur. See page 36.

Recommendation #11

The bureau:

- A. Review its current role and involvement with explosives storage in relation to other agencies.

28

Bureau Reply: Concur. See page 37.

- B. Seek appropriate legislative action to update state explosives storage laws.

28

Bureau Reply: Concur. See page 37.

CHAPTER I

INTRODUCTION

A performance audit of the Fire Marshal Bureau of the Law Enforcement Division of the Department of Justice was performed at the request of the Legislative Audit Committee. The audit was requested when a preliminary survey identifying potential audit areas was presented to the Committee at its November 1983 meeting. This report summarizes the results of our performance audit of the bureau's functions.

OBJECTIVES OF AUDIT

The objectives of this performance audit were to determine if bureau functions are being managed effectively and efficiently, and to identify the causes of any inefficiencies or ineffective practices.

During our audit we asked officials of the Department of Justice and the Fire Marshal Bureau for responses on selected audit points. These areas related to report issues and recommendations and were discussed with bureau personnel during the audit, rather than after audit completion.

Management memoranda were also issued during our audit. Through these memoranda we communicated to division management issues which may not be significant enough to be included in the audit report, but were such that the division may wish to address them.

SCOPE OF AUDIT

The audit focused on the effectiveness and efficiency of Fire Marshal Bureau Operations. It did not include a review of the financial status of the bureau. The audit was conducted in accordance with generally accepted governmental performance auditing standards.

We examined and observed bureau policies, procedures, and available records. Interviews were conducted of bureau staff, local fire authorities, and fire protection equipment dealers.

We visited a sample of local fire departments in the state to determine the extent and consistency of local inspection programs. Local fire department inspection records were also reviewed and frequency of inspections noted.

In addition, we visited the Fire Services Training School in Great Falls to review school programs and interview school staff. The functions of the school were compared with bureau functions.

A questionnaire was sent to 200 fire departments in the state. The questionnaire was designed to provide us with information on the bureau's role and involvement with local fire departments. Fifteen other states in the region were also contacted to obtain comparative information on the role and functions of their state's central fire authority.

COMPLIANCE

As part of our audit we reviewed compliance with laws, administrative rules, and policies relating to Fire Marshal Bureau activities. Specific instances of non-compliance with laws, rules or policies that were found in our review are discussed in the related report sections. For areas not included in our audit scope and therefore not specifically tested for compliance, nothing came to our attention during our audit work that would indicate the bureau is not adhering to established laws, rules and policies in these areas.

PRELIMINARY SURVEY CONCERNS

In early fall of 1983, a preliminary survey was conducted of Fire Marshal Bureau operations by the Legislative Auditor's Office. During the survey three administrative concerns were identified that were being addressed at the time of audit work. These three concerns are listed below.

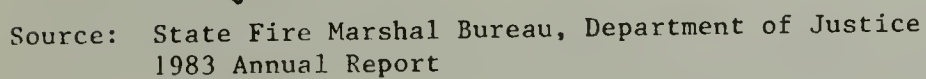
1. Bureau had no formal policy manual.
2. Bureau had no formal system for evaluating employee performance.
3. Bureau had no formal goals and objectives.

At the completion of audit work, the bureau's policy manual was developed and had been submitted to the division administrator for approval. The bureau is currently working with the Central Services Division of the Department of Justice to develop and implement an employee performance appraisal system. According to bureau officials, this system will be implemented in the fall of 1984. During the early stages of audit work, bureau staff developed formal goals and objectives for the bureau.

BUREAU BACKGROUND

BUREAU STAFFING

DEPUTY STATE FIRE MARSHAL DISTRICTS



4

One of the Deputy State Fire Marshals located in Helena is not assigned a specific district, but is responsible for a fire reporting system and polygraph examinations for other law enforcement agencies for other crimes, with arson taking priority.

The bureau, in addition to its full-time staff, contracts with a keypunch operator for entering fire reports on the Montana Fire Incident Reporting System. Periodically, additional contracts provide for clerical staff assistance with typing and other duties. For fiscal year 1983-84 the Fire Marshal Bureau spent \$5,621 for contracted keypunching services, and \$3,459 for contracted clerical services.

The Fire Marshal has designated Special Deputy Fire Marshals in certain communities. Special deputies are primarily located in the state's larger communities. When the service of special deputies is required, it is accomplished through a contract agreement.

Special deputies recently received training on fire suppression systems to prepare them for a kitchen hood inspection program the bureau is coordinating. This program will attempt to inspect all kitchen hood fire suppression systems in Montana. Special deputies are also used by the bureau if the regular deputy is busy with other investigations or, because of geographical limitations, cannot personally make an investigation or inspection.

At the time of the audit there were eighteen special deputies located throughout the state. The bureau has been appropriated \$10,000 per year for fiscal years 1982-83 and 1983-84 to compensate special deputies for their work with the kitchen hood inspection program. Bureau officials believe the bureau will continue to use special deputies for other programs when the kitchen hood program is complete.

BUREAU FUNDING

The bureau's activities are funded solely from state General Fund appropriations. The bureau received federal grants for setting up a Montana Fire Incident Reporting System from September of 1977 through July of 1979. Currently the bureau is receiving no federal grant moneys.

Section 50-3-109, MCA, titled "Tax on Fire Insurance Premium for Maintenance of Bureau," requires that a tax on fire insurance premiums of three fourths of one percent on the fire portion of direct premiums be paid to the State Auditor by each insurer doing business in the state. The money collected from this tax is placed in the state's General Fund. The following illustration indicates bureau expenditures and insurance tax revenues for the last four fiscal years.

<u>Fiscal Year</u>	<u>Fire Marshal Bureau Expenditures (Unaudited)</u>	<u>Revenues Generated From Tax on Insurance Premiums (Unaudited)</u>
1979-80	\$200,607.15	\$342,138
1980-81	206,185.88	357,624
1981-82	285,351.70	349,790
1982-83	309,566.75	364,053

Source: Statewide Budgeting and Accounting System, State Auditor's Office records

Illustration 2

BUREAU RESPONSIBILITIES

The bureau assists local fire and law enforcement officials with arson and fire investigations upon request. The bureau has established arson and fire investigation as a high priority, and spends most of its time with this function. In 1983 the bureau investigated 149 fire scenes at the request of local officials.

The bureau annually conducts a basic arson investigation school at the Law Enforcement Academy in Bozeman. Law enforcement and fire service personnel attend the course which covers such topics as determining arson, protection and collection of evidence, burn patterns, and interviewing techniques.

Maintain Record of All Fires

The State Fire Marshal is required by section 50-3-102(15), MCA, to keep a record of all fires occurring in the state, the origin of the fires, and all related facts, situations, and

circumstances. Likewise, all local officials responsible for investigating fires are required to report to the bureau on each and every fire. The records are kept on the Montana Fire Incident Reporting System. Local fire departments are to send a fire incident report to the bureau (on a form provided by the bureau for each fire they respond to in their restrictive jurisdictional areas). The bureau processes the data from these reports and sends a quarterly and annual report to the U.S. Fire Administration's national data center. Local departments then receive data reports from the bureau pertaining to fires in their jurisdictions. Bureau records indicate that in 1983, 267 departments were participating in the Montana Fire Incident Report System.

Code Interpretation

The Fire Marshal has adopted the Uniform Fire Code under the authority of section 50-3-102(2)(a), MCA, and according to the requirements of section 50-3-103, MCA. The Uniform Building Code, Uniform Building Code Standards, Uniform Mechanic Code, and National Electric Code are companion codes to the Uniform Fire Code.

Many incorporated cities and towns have adopted the Uniform Fire Code, in whole or in part. Because the Uniform Fire Code is complex, and many local jurisdictions do not work with it on a daily basis, the Fire Marshal Bureau is used as a resource for code interpretation by local jurisdictions.

Inspections

The bureau is not responsible for, nor does it inspect public buildings on a regular basis in local communities. The bureau can be requested by local authorities to assist in inspections. However, local authorities rarely request the assistance of the Fire Marshal Bureau for building inspections.

The State Fire Marshal Bureau is to annually inspect each state institution and each unit of the Montana University System and make recommendations in regard to fire prevention, fire

protection, and public safety. State-owned buildings, excluding those the bureau is required to inspect, are inspected by local authorities. The State Fire Marshal Bureau will make inspections of state-owned buildings when requested by the General Services Division of the Department of Administration, a building manager, or an administrator. Requested inspections are usually for specific areas or problems, and are not in all cases comprehensive building inspections.

Fire Protection Equipment Dealer Licensing

The bureau issues licenses, sales permits, and certificates of registration to dealers and persons involved with the sale, servicing, or installation of fire protection equipment (fire extinguishers, alarms, sprinkler systems, etc.) in Montana.

The bureau maintains records of licenses, sales permits, and certificates of registration issued. Effective July 1, 1984, the bureau began implementation of an annual license renewal process for fire protection equipment dealers. Bureau records indicate that in 1983 there were a total of 447 fire protection equipment dealers in the state of Montana, and 45 dealers who operated in Montana but were located out-of-state. Bureau officials believe the number of firms operating in the state is actually less, and the annual renewal process will reveal which firms are no longer in business.

Relationship With Other Agencies

Montana statutes require the State Fire Marshal to review and approve plans for educational, institutional, and certain public assembly buildings. To reduce duplication of effort, the State Fire Marshal has delegated this authority for plan review to the Building Codes Division of the Department of Administration.

The Fire Marshal Bureau is to annually inspect community homes for developmentally disabled and day care centers of thirteen or more residents. Community homes for the developmentally disabled that receive federal funds for intermediate or skilled care

are also to receive an inspection by the Hospital and Medical Facilities Licensing Division of the Department of Health and Environmental Sciences. To avoid duplication, the Fire Marshal Bureau has elected not to inspect those community homes that are inspected by the Hospital and Medical Facilities Licensing Division.

Section 2-17-112, MCA, requires the Department of Administration to obtain information necessary to prepare a budget for each biennium for fire protection services for state-owned buildings as determined by the State Fire Marshal. An example of fire protection services for state-owned buildings is the Bozeman Fire Department providing fire protection for the Montana State University campus.

In 1978 the Fire Marshal Bureau coordinated the administration of a questionnaire to local governments for the purpose of estimating the "state's fair share of cost" for fire protection services. The information from this survey was compiled in 1982, and a total cost figure of \$686,131 was arrived at by the Department of Administration for local fire department protection of state-owned buildings protection. According to the Governor's Office of Budget and Program Planning, no money was appropriated by the 1983 Legislature for fire protection services of state-owned buildings.

Relationship with Local Fire Authorities

The Fire Marshal Bureau's primary contact with local fire departments is through the Montana Fire Incident Reporting System and requests for arson and fire investigations. Any other involvement is usually the result of local department requests and questions. Local fire departments handle most of the fire service activities (inspections, investigations, firefighting, etc.) in their communities. The Fire Marshal Bureau will visit local communities to conduct fire investigations and to inspect those state-owned buildings which the bureau is statutorily required to inspect. The following chart summarizes the roles of the bureau and local fire authorities. The Fire Marshal Bureau also conducts training for local fire departments in fire cause determinations and arson investigations.

ROLE OF BUREAU AND LOCAL AUTHORITIES

<u>Activity</u>	<u>Bureau Role</u>	<u>Local Department Role</u>
Montana Fire Incident Reporting System	Receive incident reports from local departments, enter data on computer, send information to national data center, and distribute data reports to locals.	Send a fire incident report to the bureau for every fire occurring in their jurisdiction.
Building Inspections *	Inspect developmentally disabled homes, daycare centers personal care homes, alcoholic rehabilitation centers and local buildings when requested.	Inspect buildings in their jurisdiction.
	Annually inspect state institutions and units of the university system.	Inspect other state owned buildings.
Investigations	Arson and fire investigation upon request.	Arson and fire investigation in their jurisdictions.
Training	Arson training and establishment of arson investigation teams.	Some larger departments have their own in-house training programs.
Other	Code interpretation and publish newsletter to distribute to local fire departments.	Fire suppression.

* No laws or rules specifically state who is to inspect state-owned buildings. Most local authorities contacted during audit work indicated they inspect the buildings because the buildings are in their jurisdictions.

Illustration 3

CHAPTER III

LOCAL INSPECTIONS

This chapter discusses audit findings regarding consistency of local inspections and the bureau's role as the state's central fire authority in coordinating the local inspection process.

LAW REQUIRES

Section 50-61-114, MCA, requires the chief of the fire department of each municipality or district where a fire department is established and the county sheriff or deputy fire marshals where no fire department exists to inspect "all premises" every six months. This section also requires that copies of the inspections be filed in the office of the State Fire Marshal Bureau on forms provided by the bureau.

BUREAU AND LOCAL COMPLIANCE

Historically, the Fire Marshal Bureau has not maintained local inspection records because no enforcement mechanism exists to force the local authorities to make the inspections or file the reports. Currently inspections of public schools, state-owned buildings, and businesses are made by local authorities at their discretion. Other than a form to be used when inspecting schools, the bureau does not provide local authorities with inspection forms.

During our audit work we visited fifteen local fire departments in the state. During these visits we interviewed local fire authorities and reviewed inspection reports to determine the frequency of building inspections. Of the fifteen departments visited, only one department is attempting to make inspections every six months. Many of the smaller volunteer departments visited do not regularly inspect buildings, and only conduct inspections if the owner requests.

Our review of local department inspection records indicated a building in a community may have an inspection interval of one year, while another building in the same community may not have

been inspected for five years. Because inspection intervals varied extensively within communities and from community to community, a meaningful average inspection interval time could not be determined.

Six-Month Inspection Requirement

Those departments that are conducting building inspections believe the current six-month requirement is not feasible. Local fire officials stated that they do not have the manpower to conduct thorough inspections and follow-up in all buildings every six months. Volunteers expressed concern that it is difficult to find time to conduct inspections. Local officials also believe that some buildings require less frequent inspections than others because of the structure of the building or nature of materials stored in them.

We believe the Fire Marshal Bureau should seek legislative action to modify the current law requiring six-month inspections. Perhaps the law could require timely building inspections necessary to promote life safety, and omit a specific time interval.

RECOMMENDATION #1

WE RECOMMEND THE FIRE MARSHAL BUREAU SEEK LEGISLATIVE CHANGE TO MODIFY THE CURRENT LAW REQUIRING SIX-MONTH INSPECTIONS OF ALL PREMISES.

Review of Local Inspection Forms and Procedures

During our visits to local fire departments we obtained and reviewed available inspection forms and written inspection procedures. Our review of these documents indicates there is a great deal of inconsistency from department to department regarding standards and criteria used for inspections. We noted in one Montana community the city fire department is using one set of forms and criteria, yet the rural fire department in the same community (which inspects buildings adjacent to city inspected buildings) uses different forms and criteria.

The need for additional training and improved statewide coordination is discussed below.

Inspection Training Inadequate

Our audit work indicated local fire department officials believe their departments need more building inspection training. During our audit we sent questionnaires to 200 fire departments in the state to obtain information from these departments regarding Fire Marshal Bureau related activities. Of the 112 departments responding, only 9% had received inspection training from the Fire Marshal Bureau, and only 25% had received inspection training from any source. Seventy-seven percent of the responding departments believe additional building inspection training is needed. Local fire authorities stated that the lack of formal inspection training contributes to inconsistent inspections, and causes some of them to be wary of conducting inspections at all.

Bureau Coordination Necessary

A lack of statewide coordination is another reason for inconsistencies in the local inspection process. The bureau has done little to coordinate the local inspection process in the state. We believe the bureau should develop inspection forms and procedures which can be used throughout the state. Universal inspection forms and procedures will promote consistency in inspections and bureau conducted training on how to use the forms will provide local departments with needed training in the area of local inspections. Local authorities interviewed during audit work believe development of universal inspection forms for the state would improve the quality and consistency of local inspections.

RECOMMENDATION #2

WE RECOMMEND THE BUREAU COORDINATE THE LOCAL INSPECTION PROCESS BY:

- A. DEVELOPING INSPECTION FORMS WHICH CAN BE USED THROUGHOUT THE STATE.

- B. PROVIDING LOCAL FIRE DEPARTMENTS WITH TRAINING ON HOW TO USE THE FORMS, AND IF NECESSARY, HOW TO CONDUCT INSPECTIONS.

CHAPTER IV

BUREAU COMMUNICATION WITH LOCAL FIRE DEPARTMENTS

As the state's central fire authority, it is important that the Fire Marshal Bureau communicate effectively with local fire departments in the state. This chapter discusses the bureau's communication with local departments and includes recommendations for improving this communication.

LOCAL DEPARTMENT ADDRESSES

Bureau maintained addresses for local departments are not accurate and up-to-date. During our audit work we distributed questionnaires to 200 local fire departments in the state using addresses provided by the Fire Marshal Bureau. Four percent of the sampled departments' questionnaires were returned because of incomplete address information. One department informed our office that it received three questionnaires under three different names.

The Fire Marshal Bureau sends much of its mail to local fire departments bulk rate. Because bulk rate mail incorrectly addressed is not returned to the sender, the bureau is not aware of information not reaching local fire departments.

The Fire Marshal Bureau should periodically update its local fire department address list so as to facilitate more effective dissemination of information to local fire departments. The bureau could periodically send out address update cards with the information they send to locals. These could be used to make the bureau aware of any address changes, local fire chief changes, etc.

RECOMMENDATION #3

WE RECOMMEND THE BUREAU PERIODICALLY UPDATE ITS LOCAL FIRE DEPARTMENT ADDRESS LIST.

MONTANA FIRE INCIDENT REPORTING SYSTEM

The State Fire Marshal Bureau is responsible for maintaining a record of all fires occurring in the state. The records are kept on the Montana Fire Incident Reporting System. Local fire departments collect the data on a common form and send the reports into the State Fire Marshal Bureau. The bureau processes the data and sends a quarterly and annual report to the U.S. Fire Administration's National Data Center. The Montana information resulting from the reporting system is distributed to the local fire departments via the State Fire Marshal Bureau.

Data Relevance

Bureau records indicate that in 1983, 267 departments were participating in the Montana Fire Incident Reporting System. Thirty-seven of the departments participating did not experience any fires so they did not receive any data reports from the bureau. Of the remaining 230 departments, 215 are volunteer departments, and 15 are considered paid departments.

Six different types of reports are regularly sent to the 15 paid departments, while the volunteer departments regularly receive two different types of reports. Reports received by individual departments contain only information relating to fires occurring in their jurisdictions.

During our visits to local fire departments we asked local fire authorities to comment on the usefulness of data produced from the Montana Fire Incident Reporting System. Most of the local departments visited do not use the data to determine trends or problem areas. Some of the local department officials indicated they use the information as support at budget time and to improve department morale.

The results from the questionnaire distributed to local fire departments indicates 23 percent of the departments receiving data reports are unaware of the types of reports they are receiving. Questionnaire results also indicate 41 percent of the departments

receiving a report titled "Base Report," and 35 percent of departments receiving a report titled "Dollar Loss Report" feel the reports are of little use to their departments.

The Fire Marshal Bureau reviews data produced from the Montana Fire Incident Reporting System and develops charts and graphs from this information to place in its annual report to the Attorney General. This report is distributed to local fire departments in the state.

The Montana Fire Incident reporting system provides a means for reporting fires to the State Fire Marshal Bureau, and allows the bureau to meet its statutory obligation in this area. The information produced from the system is not being effectively utilized by local fire departments. The Montana Fire Incident Reporting System Preparation Handbook states that a benefit to be derived from the fire incident reporting system is "data can be used locally for more effective and efficient department operations."

The bureau should communicate with local departments to determine why local fire departments are not using information produced from the fire incident reporting system. The information itself may not be useful, or perhaps the bureau has not effectively communicated the report names and usefulness of the reports. After determining the reasons why local departments are not utilizing the reports the bureau should modify the current system (within the constraints of the national system) to better serve Montana fire departments.

RECOMMENDATION #4

WE RECOMMEND THE BUREAU:

- A. COMMUNICATE WITH LOCAL FIRE AUTHORITIES TO DETERMINE WHY THEY ARE NOT USING INFORMATION PRODUCED FROM THE MONTANA FIRE INCIDENT REPORTING SYSTEM.
- B. MODIFY THE STATE'S REPORTING SYSTEM TO REFLECT THE NEEDS OF MONTANA FIRE DEPARTMENTS.

BUREAU CONTACT WITH LOCAL DEPARTMENTS

Many of the departments responding to our questionnaire indicated they have little contact with the Fire Marshal Bureau. Over 90 percent of the fire departments in the state are volunteer departments (bureau officials estimate there are approximately 325 active fire departments in the state). Volunteer fire department contact with the bureau is primarily limited to requested assistance with fire and arson investigations and participation in the Montana Fire Incident Reporting System.

Local authorities interviewed during audit and preliminary survey work believe the bureau is cooperative and helpful when contacted. However, these local authorities said this contact is usually for fire and arson investigation and is not that frequent. The bureau has established arson and fire investigation as one of its highest priorities, and historically staff time has been directed toward this activity rather than in the area of regularly communicating with local departments.

The lack of communication between the bureau and local departments has resulted in local departments being unaware of bureau activities and programs. If the bureau is to effectively administer its programs and serve as the central fire authority in the state, effective communication with local fire departments is necessary.

The bureau can achieve more effective communication with local authorities in a number of possible ways:

1. When in the area and when the workload allows, the Deputy State Fire Marshals should personally visit local departments.
2. The bureau should develop a chart delineating the roles of the bureau and local fire departments and distribute this to local departments.
3. Encourage local departments to contact the bureau for information.

Improving relations and communications with local authorities should make the bureau more sensitive to local department needs

and allow the bureau to develop its programs to reflect these needs.

RECOMMENDATION #5

WE RECOMMEND THE BUREAU TAKE THE NECESSARY STEPS TO IMPROVE COMMUNICATION WITH LOCAL FIRE DEPARTMENTS.

CHAPTER V

STATE-OWNED BUILDING INSPECTIONS

State-owned buildings, excluding those the bureau is required to inspect, are usually inspected by local authorities. The Fire Marshal Bureau does make inspections of state-owned buildings when requested by the General Services Division of the Department of Administration, a building manager, or an administrator. We reviewed available inspection reports of state-owned buildings in Helena and other Montana cities. This review indicates state-owned buildings in Helena are not regularly inspected.

Inspection records indicate the capitol complex in Helena was inspected in 1978 by the Helena fire department, and not inspected again until April of 1984. The Fire Marshal Bureau did a partial inspection of the capitol complex in 1982. Helena fire department officials indicated the state's failure to correct problems written up in inspection reports makes them believe inspecting state-owned buildings is not an effective use of their time. These officials said the lack of action by the state to correct violations is why they have not been regularly inspecting state-owned buildings in Helena.

According to Helena Fire Department officials, another reason state-owned buildings in Helena are not being inspected on a regular basis is an uncertainty regarding who is responsible for state-owned building inspections. No statutes, rules, or policies explicitly state who is responsible for inspecting state-owned buildings.

The effect, or potential effect of state-owned buildings in Helena not being regularly inspected is impossible to measure in quantifiable terms. However, there is the potential that persons working or using Helena state-owned buildings could be exposing themselves to life safety risks.

Our visits to other Montana cities indicated state-owned buildings are being inspected by local authorities. However, examples of state-owned buildings not being regularly inspected were also evidenced when local inspection reports were reviewed.

Fire officials in these cities believe state-owned buildings are their responsibility if the buildings are located in their jurisdictions. The departments visited each had two or three state-owned buildings in their jurisdictions. Local fire authorities said the violations noted in these buildings are corrected.

Formal clarification of who is responsible for inspecting state-owned buildings could provide more frequent inspection of state-owned buildings. The Fire Marshal should take appropriate action to clarify who is responsible for inspecting state-owned buildings.

RECOMMENDATION #6

WE RECOMMEND THE BUREAU TAKE APPROPRIATE ACTION TO CLARIFY WHICH ENTITY(IES) ARE RESPONSIBLE FOR INSPECTING STATE-OWNED BUILDINGS.

CHAPTER VI
LICENSING AND CERTIFICATION
OF FIRE PROTECTION EQUIPMENT DEALERS

This chapter discusses the effectiveness of the Fire Marshal Bureau administered licensing and certification program for fire protection equipment dealers. The recommendations in this chapter discuss ways the bureau could improve the effectiveness of this program.

The Fire Marshal Bureau is not administering the Licensing and Certification program for fire protection equipment dealers as effectively as it should. Inaccurate bureau records and numerous examples of an apparent lack of bureau monitoring were noted.

The bureau licenses dealers and persons involved with the sale, installation, and servicing of fire protection equipment (fire extinguishers, alarms, sprinkler systems, etc.). Bureau records indicate that in 1983 there were a total of 447 fire protection equipment dealers in the state of Montana, and 45 dealers who operated in Montana but were located out of state.

ACCURACY OF BUREAU RECORDS

Two sample procedures were used to test the accuracy of bureau records. One sample consisted of randomly selecting fire protection equipment dealers from telephone directories. The second sample consisted of randomly selecting fire protection equipment dealer records from bureau files. In both samples bureau information was compared to information those dealers provided our office.

The two samples indicated that 25% of the records reviewed were inaccurate. Following is a list of some of the discrepancies found.

Lack of monitoring by the bureau contributes to the inaccuracy of bureau records. Fire protection equipment dealers contacted during audit work believe the Fire Marshal Bureau does little monitoring of their industry. Bureau officials stated that the bureau does not regularly inspect installed fire protection

equipment. Most inspections of fire protection equipment result from complaints the bureau receives. The following examples noted during audit work support the fact that bureau records are inaccurate and little monitoring of installed equipment is done by the bureau.

1. Unlicensed firms are operating in the state and advertising in telephone directories, yet the bureau has no record of their existence.
2. Bureau records list a particular individual as currently certified and working for a firm he has not worked for in over five years.
3. Bureau records indicate a Helena firm is out of business, yet this firm is still operating and installing fire protection equipment.
4. Three firms not licensed by the bureau are servicing fire extinguishers in state high schools.
5. A licensed dealer is inspecting and servicing extinguishers in one of the state's larger school districts using a certificate of registration number which is void according to bureau records.
6. Bureau records indicate a certified individual as being certified to service extinguishers for a fire department, yet this individual is signing off fire extinguisher tags for a private dealer.

It appears that inaccurate fire protection equipment dealer records and the lack of regular monitoring by the Fire Marshal Bureau indicates the program is not effectively monitoring and regulating fire protection equipment dealers in the state.

The Fire Marshal Bureau should develop a system for maintaining accurate up-to-date fire protection equipment dealer records. The bureau should incorporate a monitoring function into this system so the accuracy of bureau records can be verified. Accurate fire protection equipment dealer records will enable the Fire Marshal Bureau to more effectively administer its licensing and certification program.

RECOMMENDATION #7

WE RECOMMEND:

- A. THE BUREAU DEVELOP A SYSTEM FOR MAINTAINING ACCURATE UP-TO-DATE FIRE PROTECTION EQUIPMENT DEALER RECORDS.
- B. INCLUDED IN THIS SYSTEM SHOULD BE A MONITORING FUNCTION TO VERIFY ACCURACY OF BUREAU RECORDS.

ADMINISTRATIVE RULES

The Fire Marshal Bureau publishes a pamphlet titled "Rules and Procedures Concerning Responsibilities to be Followed When Applying for a Sales Permit, License, or Certificate of Registration, Prior to Selling, Servicing, and Installing Fire Protection Equipment." This pamphlet contains MCAs and ARMs related to licensing and certification. Also included in this pamphlet are bureau policy statements to the adopted rules. The pamphlet is distributed to fire protection equipment dealers in the state.

Confusion of Rules and Policy Statements

Bureau officials indicated the policy statements have been included in the pamphlet to clarify the administrative rules for the bureau and fire protection equipment dealers. The policy statements are listed in the pamphlet with the same titles and numbers as the actual adopted rules.

Our audit work indicated there is a concern by dealers in the state regarding the rules. For example, there appears to be confusion regarding the definition of a "factory authorized dealer" and "factory authorized representative." (Dealers question whether a dealer receiving supplies from an out of state dealer is actually factory authorized.) The policy statements to administrative rules are worded differently than the rules actually adopted regarding the factory authorization requirement.

To alleviate the confusion regarding the adopted rules the bureau should amend current administrative rules to clearly reflect the intent of the bureau's program and include any necessary explanations in the rules.

RECOMMENDATION #8

WE RECOMMEND THE BUREAU AMEND CURRENT ADMINISTRATIVE RULES TO INCLUDE ALL NECESSARY EXPLANATIONS IN THE ACTUAL RULES.

CERTIFICATION EXAMINATIONS

The Fire Marshal Bureau develops and administers examinations to individuals wishing to become certified to service and install fire protection equipment. For an individual to be certified to service a specific type of equipment, they must pass an exam designed to test their knowledge in that area.

The bureau does not maintain statistics or analyze pass/fail rates of examinations. The bureau has no system of formally reviewing and revising exams.

Because the bureau is not periodically analyzing examination results, it is unaware of needed exam rewording, or of questions applicants are consistently failing. Analysis of examination results could also be compared with field observations of installed equipment to determine whether the examinations are an effective means of testing an applicant's knowledge of fire protection equipment.

A periodic analysis and necessary revision of bureau certification exams should be performed to reflect changes in fire protection equipment standards and codes. This review and analysis should also be used to determine whether the exams are effective at testing an individual's abilities to properly install and service fire protection equipment.

RECOMMENDATION #9

WE RECOMMEND THE BUREAU PERIODICALLY ANALYZE AND REVIEW FIRE PROTECTION EQUIPMENT CERTIFICATION EXAMS, THE EFFECTIVENESS OF THE EXAMS, AND IF NECESSARY, REVISE EXAMS TO REFLECT CHANGES IN FIRE PROTECTION EQUIPMENT STANDARDS AND CODES.

COST OF ADMINISTERING PROGRAM

The current fee structure for licenses, sales permits, and certificates of registration supports less than 3 percent of the cost of administering the bureau's fire protection equipment dealer licensing program.

Bureau officials estimate the bureau spends approximately 300 administrative hours and 300 hours of deputy state fire marshal and fire marshal time per year administering the program. Based on current salary and benefit rates the cost to the state to administer this program is \$7,415 per year. In addition to the staff costs there are also some incidental costs related to administering the program such as paper and postage.

The current statutorily established fee structure is a one-time-only payment system requiring \$25 for a license, \$15 for a sales permit, and \$5 for a certificate of registration (one \$5 fee covers all employees). Dealers do not pay any fee for annual renewal of licenses and certificates of registration. During fiscal year 1982-83, \$205 in license, sales permit, and certificate of registration fees were received and deposited into the General Fund.

The current fee structure does not accurately reflect the cost of administering the state's licensing and certification program (fees currently cover 3 percent of costs). The legislature should consider changing the current fee structure for licensing and certification of fire protection equipment dealers, so that fees are commensurate with the costs of administering the program.

RECOMMENDATION #10

WE RECOMMEND THE BUREAU SEEK LEGISLATION TO CHANGE THE CURRENT FEE STRUCTURE FOR LICENSING AND CERTIFICATION OF FIRE PROTECTION EQUIPMENT DEALERS SO THAT FEES ARE COMMENSURATE WITH THE COSTS OF ADMINISTERING THE PROGRAM.

CHAPTER VII

INSPECTION OF EXPLOSIVES STORAGE

Section 50-38-231, MCA, states that "all persons engaging in keeping or storing explosives after July 1, 1917, shall before engaging in the keeping or storing of explosives, make a report in writing subscribed to by such persons or their agent to the state fire marshal." This report is to state the location of magazine, type of explosives to be stored and the distance the magazine is located from the nearest buildings, railroads, and highways.

Section 50-30-232, MCA, requires the State Fire Marshal to inspect the magazine after receiving the report required by section 50-38-231, MCA. The fire marshal is to determine the amount of explosives that may be kept and stored in the magazine, and is to issue a certificate to the person applying indicating compliance with provisions in Title 50, chapter 38, MCA.

BUREAU ACTIVITY

The Fire Marshal Bureau does not regularly inspect explosives magazines, nor does it issue certificates stating the amount of explosives which may be stored in specific magazines. The bureau occasionally inspects explosives storage magazines upon request. In 1982 the bureau conducted a survey to determine what geophysical exploration firms are storing explosives in the state. A list was obtained from each County Clerk and Recorder in the state of all geophysical firms operating in their county. The Fire Marshal Bureau did not inspect the listed firm's explosives magazines.

Noncompliance

Firms storing explosives, and the Fire Marshal Bureau are not complying with state statute.

1. Firms are not submitting reports to the Fire Marshal Bureau prior to storing of explosives as required by section 50-38-231, MCA.

2. The Fire Marshal Bureau is not inspecting explosives magazines and issuing certificates of compliance as required by section 50-38-232, MCA.

Bureau officials believe the laws regarding explosives storage were enacted when there were no other federal and state agencies (i.e., Federal Occupational Safety and Health Administration and the State Safety Bureau) inspecting explosives storage. Over time the role of the Fire Marshal Bureau has diminished in this area because of increased involvement by these other agencies.

The bureau should review its current role regarding explosives storage and determine what its involvement in this area should be in relation to other agencies. Once the bureau has determined its role in this area, the bureau should seek appropriate legislative action to update state explosives storage laws.

RECOMMENDATION #11

WE RECOMMEND THE BUREAU:

- A. REVIEW ITS CURRENT ROLE AND INVOLVEMENT WITH EXPLOSIVES STORAGE IN RELATION TO OTHER AGENCIES.
- B. SEEK APPROPRIATIVE LEGISLATIVE ACTION TO UPDATE STATE EXPLOSIVES STORAGE LAWS.

CHAPTER VIII

FIRE SERVICES TRAINING SCHOOL

Although we did not audit the Fire Services Training School, we did review school programs to determine the feasibility of placing the Fire Services Training School under the direction of the State Fire Marshal Bureau.

The Fire Services Training School is currently under the direction of the State Board of Education. Because the functions of the Board of Education are dissimilar from those of the Fire Services Training School, the school and board are pursuing the possibility of different sponsorship. Potential sponsors include individual units of the university system, community colleges, and the Department of Justice (placement under the Fire Marshal Bureau is one suggested option within the Justice Department).

It does not appear feasible at this time to place the Fire Services Training School under the direction of the State Fire Marshal Bureau for two major reasons:

1. Bureau functions are distinctly different from those of the Fire Services Training School.
2. At this time it does not appear it would be effective for the Fire Marshal Bureau to increase its administrative responsibilities.

The Fire Services Training School's primary mission relates to training firefighters in the state, and providing audiovisual training aids to local fire departments.

Fire Marshal Bureau conducted training accounted for 1.4 percent of the bureau's activities in calendar year 1983. The bureau has given higher priority to its other programs such as fire and arson investigations, building inspections, and code interpretation. Most of the bureau's staff time is allocated to these programs.

The Fire Marshal Bureau has not been able to completely carry out all of its currently mandated programs and responsibilities. Placement of the school under the direction of the bureau without an increase in FTE would place additional constraints upon

the bureau's staff and could adversely affect the administration of current Fire Marshal Bureau programs and of the Fire Services Training School. The scope of our audit work did not include reviewing other potential sponsors for the school so no recommendations will be made.

BUREAU RESPONSES

STATE
OF
MONTANA
DEPARTMENT OF JUSTICE
FIRE MARSHAL BUREAU

Room 371, Scott Hart Building, 303 North Roberts, Helena, Montana 59620 (406) 444-2050

14 August 1984

RECEIVED

AUG 14 1984

MONTANA LEGISLATIVE AUDITOR

Jim Pellegrini
Performance Audit Manager
Office of the Legislative Auditor
Room 135, State Capitol
Helena MT 59620

RE: **PERFORMANCE AUDIT-FIRE MARSHAL BUREAU**

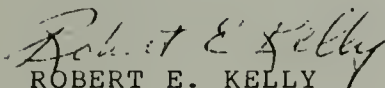
Dear Mr. Pellegrini:

Thank you for the opportunity to review and comment on the Performance Audit Report of the Fire Marshal Bureau.

I commend your office and particularly Mr. Michael Cieri for the professional manner in which the audit was conducted.

Enclosed are comments to the audit.

Sincerely,


ROBERT E. KELLY
State Fire Marshal

REK/klr

Enclosure

COMMENTS TO PERFORMANCE AUDIT

Fire Marshal Bureau - Department of Justice
Response to Audit Recommendations by
Robert E. Kelly, State Fire Marshal

RECOMMENDATION NO. 1

We recommend the Fire Marshal Bureau seek legislative changes to modify the current law requiring six-month inspections of all premises.

COMMENT

The Montana Fire Chiefs Association is proposing legislation to modify current law. The State Fire Marshal will either introduce legislation to modify the law or support the Montana fire Chiefs Association's proposed legislation to modify the law.

RECOMMENDATION NO. 2

We recommend the Bureau coordinate the local inspection process by:

- A. Developing inspection forms for inspections of certain occupancies that are used by some local jurisdictions. The Bureau will develop the necessary additional inspection forms to be used throughout the State.

COMMENT

The Bureau has developed forms for inspections of certain occupancies that are used by some local jurisdictions. The Bureau will develop the necessary additional inspection forms to be used throughout the State.

- B. Providing local fire departments with training on how to use the forms, and if necessary, how to conduct inspections.

COMMENT

The Fire Marshal Bureau will coordinate with the Fire Services Training School to develop and deliver a training program on the use of the inspection forms to the local fire departments.

RECOMMENDATION NO. 3

We recommend the Bureau periodically update its local fire department address list.

COMMENT

The Bureau has started a program of coordinating with the Montana Fire Chiefs Association and the Fire Services Training School to periodically update the local fire department address list.

RECOMMENDATION NO. 4

We recommend the Bureau:

- A. Communicate with local fire authorities to determine why they are not using information produced from the Montana Fire Incident Reporting System.

COMMENT

The Bureau will be conducting training seminars to introduce modifications to the reporting system. During these seminars the Bureau will determine why some local fire authorities do not use information from the fire incident reporting system.

- B. Modify the State's Reporting System to reflect the needs of Montana Fire Departments.

COMMENT

During the training seminars, referenced in the Comment to 4-A, the Bureau will identify the needs of the Montana Fire Departments and modify the reporting system to address these needs.

RECOMMENDATION NO. 5

We recommend the Bureau take the necessary steps to improve communication with local fire departments.

COMMENT

Due to the number of requests for assistance from local fire departments the Bureau feels the majority of the fire departments in the State are familiar with the Bureau's programs and activities. However, we agree communications can always be improved and we will follow the steps outlined.

RECOMMENDATION NO. 6

We recommend the Bureau take appropriate action to clarify which entity(ies) is(are) responsible for inspecting state-owned buildings.

COMMENT

The State Fire Marshal will call a meeting of the Fire Chiefs of the cities where there are state-owned buildings to resolve the responsibility for inspecting state-owned buildings. If necessary, the State Fire Marshal will propose legislation to clarify the responsibility for inspecting state-owned buildings.

RECOMMENDATION NO. 7

We recommend:

- A. The Bureau develop a system for maintaining accurate up-to-date Fire Protection Equipment Dealer records.
- B. Included in this system should be a monitoring function to verify accuracy of Bureau records.

COMMENT

The Bureau has developed a system for maintaining accurate up-to-date fire protection equipment dealer records. The new system was fully used for the first time for the fiscal year 1984. Included in the new system is a requirement from the Fire Protection Equipment Dealers for documentation prior to the issuance of licenses and certificates of registration. The requirement for documentation prior to annual renewal of licenses or certificates of registration will verify the accuracy of Bureau records.

RECOMMENDATION NO. 8

We recommend the Bureau amend current Administrative Rules to include all necessary explanations in the actual rules.

COMMENT

The Bureau has received questions for clarification of the rules and attempted to answer these questions in policy statements. We agree the rule should be self-explanatory and will take the necessary steps to correct the rules so that they are self-explanatory.

RECOMMENDATION NO. 9

We recommend the Bureau periodically analyze and review Fire Protection Equipment Certification Exams, the effectiveness of the exams, and if necessary, revise exams to reflect changes in Fire Protection Equipment Standards and Codes.

COMMENT

The Bureau does revise exams to reflect changes in fire protection equipment standards and codes. The Bureau will begin to analyze pass/fail rates of examinations to correct improper format and/or wording of questions on the exams.

RECOMMENDATION NO. 10

We recommend the Bureau seek legislation to change the current fee structure for licensing and certification of Fire Protection Equipment Dealers so that fees are commensurate with the costs of administering the program.

COMMENT

The Bureau agrees with Recommendation No. 10 and will seek legislation increasing the fees for Fire Protection Equipment Dealers licensing and certification.

General comment to Recommendations Nos. 7, 8, 9 and 10. The Bureau feels the issuance of permits, licenses and certificates of registration should become a function of the Business and Professional Licensing Division within the Department of Commerce. The Bureau would continue to inspect fire protection equipment for proper installation and service.

RECOMMENDATION NO. 11

We recommend the Bureau:

- A. Review its current role and involvement with explosives storage in relation to other agencies.
- B. Seek appropriate legislative action to update State Explosives Storage Laws.

COMMENT

The Bureau is in agreement with recommendations 11-A and 11-B. The Bureau will arrange a meeting with other interested agencies, both state and local, to review the current law and to develop appropriate legislation to update the State Explosives Storage Laws.

